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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/675,596	09/29/2003	S. Richard F. Sims	AMPC 5053	6812

7590 03/30/2005

Legal Office
(AMSAM-L-G-I, Ms. Anne Lanteigne)
US Army Aviation and Missile Command
Redstone Arsenal, AL 35898-5000

EXAMINER

GREGORY, BERNARR E

ART UNIT	PAPER NUMBER
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3662

DATE MAILED: 03/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/675,596

Applicant(s)

SIMS ET AL.

Examiner

Bernarr E. Gregory

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

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1. The incorporation of essential material in the specification by reference to a foreign application or patent, or to a publication is improper. Applicant is **required** to amend the disclosure to include the material incorporated by reference. The amendment must be accompanied by an affidavit or declaration executed by the applicant, or a practitioner representing the applicant, stating that the amendatory material consists of the same material incorporated by reference in the referencing application. See *In re Hawkins*, 486 F.2d 569, 179 USPQ 157 (CCPA 1973); *In re Hawkins*, 486 F.2d 579, 179 USPQ 163 (CCPA 1973); and *In re Hawkins*, 486 F.2d 577, 179 USPQ 167 (CCPA 1973).

The improper incorporations by reference to publications are at lines 14-17 of page 5 of the Specification and at lines 13-17 of page 6 of the Specification.

2. Claims 1-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In the context of independent apparatus claim 1, it is unclear what is meant structurally by the phrase "system adapting to changing climatic conditions for maximum performance efficiency" on lines 2-3 of claim 1.

On lines 4-5 of claim 1, the phrase "capable of sensing a diversity of targets in diverse climatic conditions" is indefinite and unclear due to use of the word "capable" (expressing potential, but not clearly and definitely claiming an action) and due to the use of the phrase "diversity of targets."

On line 9 of claim 1, "the extant climatic condition" lacks antecedent basis.

Dependent claim 2 is unclear in that it depends from unclear independent claim 1.

In the context of independent apparatus claim 3, it is unclear what is meant structurally by the phrase "system adapting to changing climatic conditions for maximum performance efficiency" on lines 2-3 of claim 3.

On lines 5-6 of claim 3, the phrase "capable of sensing a diversity of targets in a given climatic conditions" is indefinite and unclear due to use of the word "capable" (expressing potential, but not clearly and definitely claiming an action).

On lines 9-10 of claim 3, "the extant climatic condition" lacks antecedent basis.

Dependent claims 4-7 are unclear in that they depend from unclear independent claim 3.

In dependent claims 5 and 6, the uses of the term "foul weather" are indefinite and unclear in context since the term can mean almost any type of weather except for a clear, sunny day.

On lines 2-3 of independent claim 8, the phrase "in changing climatic conditions for maximum performance efficiency" is indefinite and unclear in context.

On lines 8-9 of claim 8, the phrase "capable of sensing a diversity of targets in a given climatic condition" is indefinite and unclear due to use of the

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word "capable" (expressing potential, but not clearly and definitely claiming an action) and due to the use of the phrase "diversity of targets."

Dependent claims 9-10 are unclear in that they depend from unclear independent claim 8.

On lines 3-4 of claim 10, the phrase "one secondary target sensing means on one weapon" is indefinite and unclear in context. Does this phrase mean that there is one of the three named types of secondary sensors on each of the weapon?

3. Claims 1, 3, and 8 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.
4. Claims 2, 4-7, and 9-10 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.
5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The examiner-cited prior art is of general interest for showing prior art target sensing and target recognition systems. Please note that some of these use multispectral processing as in Applicants' claims.

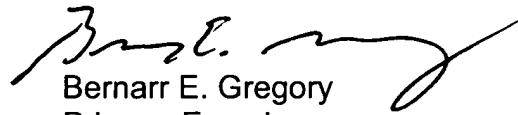
6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bernarr E. Gregory whose telephone number is (703) 306-5765. The examiner can normally be reached on weekdays from 7:30 AM to 4:00

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PM. **Please note that after 04 April 2005, the telephone number for the examiner will be (571) 272-6972.**

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas H. Tarcza, can be reached on (703) 306-4171. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Bernarr E. Gregory
Primary Examiner
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